

REMARKS

This amendment responds to the office action mailed May 9, 2003. In the office action the Examiner:

- rejected claims 26-33 and 38-39 under 35 U.S.C. § 112, first paragraph for lack of written description;
- rejected claims 17-25 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,880,138 to Pfeiffer et al. ("Pfeiffer") in view of U.S. Patent No. 5,232,120 to Dunken et al. ("Dunken"); and
- rejected claims 26-42 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,544,777 to Watson ("Watson") in view of Dunken.

New dependent claims 43 and 44 are presented for the Examiner's review and consideration. After entry of this amendment, the pending claims are claims 17-44.

I. Claim Rejections**A. 35 U.S.C. § 112 ¶ 1**

The Examiner has maintained that claims 26, 29 and 32-33 are rejected under 35 U.S.C. § 112 first paragraph "as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, at the time of the application was filed, had possession of the claimed invention." (See Office Action of 5/9/03 at 2).

With respect to claims 29, 32 and 33, the Examiner asserts nothing could be found in the original application to support the claim language, "an outer surface that is smooth at least in those regions opposite the vertically oriented ribs provided on the inner surface." The Examiner has deemed applicants' prior response citing FIG. 15 and page 9, lines 11-13 as not persuasive. Specifically, the Examiner states that the cited language refers to a "uniformly smooth outer surface," and that "[t]he outer surface cannot have 'uniform smoothness' and be smooth 'at least in those regions opposite the internal ribs.'" The Examiner's rejection apparently centers on the language, "at least," which has been removed to advance the case toward allowance. The applicants submit, however, that claims 29, 32 and 33, as amended, would still cover an embodiment of the invention in which the outer surface is not smooth in regions other than those "opposite the vertically oriented ribs provided on the inner surface" of the body. Applicants further submit that the claim language of claims 29, 32, and 33 is

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clearly supported by the application as filed. Claim 29 is directed to a substantially rectangular canister comprising, *inter alia*, a rectangular body. From the application as filed at page 8, lines 34 to page 9 line 2, the passage states, "the corners of the canister depicted in Figure 10 are provided with suitable internal ribs 54[,] corner ribs 54 can be seen in Figure 11 which is a partly sectional top view." In Figure 11 it is apparent that the outer surface of the rounded corners of the canister have, "an outer surface that is smooth in those regions opposite the vertically oriented ribs provided on the inner surface." Applicants argue that the reference to Figures in the drawings showing "an outer surface that is smooth in those regions opposite the vertically oriented ribs," demonstrates that the claim limitation is "implicitly, or inherently supported in the original filed disclosure." MPEP § 2163.05 at 2100-73. "An applicant shows possession of the claimed invention by describing the claimed invention with all of its limitations using such descriptive means as words, structures, *figures*, diagrams and formulas that set forth the claims invention. *Id.* § 2163.02 at 2100-171 (emphasis added) (citing *Lockwood v. Am. Airlines, Inc.*, 107 F.3d 1565, 1572 (Fed. Cir. 1997). Applicant once again references the passage at page 9, lines 11-13 and lines 23-25 in the application as filed which supports the "outer surface . . . on the inner surface" language of claims 32 and 33 cited in the Examiner's rejection. These passages respectively reference Figures 14-15 and Figure 18. These figures disclose the "outer surface that is smooth in those regions opposite the vertically oriented ribs provided on the inner surface." For the above reasons, applicants respectfully request withdrawal of the rejections.

The Examiner asserts that the language of claim 26, "central portions of the first and second pairs of sidewalls each having an inner surface provided" does not meet the requirements of § 112, first paragraph because "central portions" is unsupported despite applicants citation of the specification at page 8, lines 29-33, original claim 16 and Figures 8 and 9. Applicants assert that the specification at page 8, lines 29-33 and Figures 8 and 9, as well as original claim 16, disclose a rectangular canister having vertical ribs on "central portions" of each of the walls, i.e. on the portions of the walls between the corners. Applicants note that, "what is conventional or well known to one of ordinary skill in the art need not be disclosed in detail." MPEP § 2163 at 2100-166. "If a skilled artisan would have understood the inventor to be in possession of the claimed invention at the time of filing, even if every nuance of the claims is not explicitly described in the specification, then the adequate description requirement is met." *Id.* (citing *Martin v. Johnson*, 454 F.2d 746, 751, 172 U.S.P.Q. 391, 395 (CCPA 1972) ("the description need not be in *ipsis verbis* [i.e., "in the same words"] to be sufficient" (alteration in original)). One of ordinary skill in the art would

know or recognize that the sidewalls shown in the figures have "central portions" (i.e., portions between the corners). Accordingly, applicants request withdrawal of the rejection.

B. 35 U.S.C. § 103(a): Claims 17-25

Claims 17-25 were rejected as being unpatentable over Pfeiffer in view of Dunken. Specifically, the Examiner asserts that it would have been obvious to one having ordinary skill in the art to employ the ribs of Dunken in the drums of Pfeiffer in order to reinforce them. (See Office Action of 5/9/03 at 4). The Examiner further stated that, "[t]he motivation to employ the ribs of Dunken in the drums of Pfeiffer is found at col. 7, lines 56-57 of Dunken, where the reinforcing nature of ribs is taught." (*Id.*). A *prima facie* case of obviousness requires a suggestion or motivation to combine the references. Applicants contend that there is neither a suggestion nor a motivation to combine the references of Pfeiffer and Dunken. The passage in Dunken cited by the Examiner merely recites that the walls are "strengthened with a plurality of reinforcement ribs." Nowhere however does Dunken provide motivation or suggestion to implement these ribs on a blow-molded drum such as that described in Pfeiffer.

Pfeiffer teaches a *blow-molded* thermoplastic drum in which the drum body is *blow-molded* from a thermoplastic synthetic resin. (Pfeiffer, 2:5-10). As the Examiner noted, Pfeiffer does not teach vertical ribs formed by blow-molding or otherwise, in its drums. On the other hand, Dunken is directed to an *injection molded barrel*. Specifically, Dunken discloses a reaction injected molded vessel 20 having lateral walls 21A and 21B that are strengthened with a plurality of reinforcing ribs 22. (Dunken, 4:15-21; 6:32; 7:43-45, 55-57, FIGS. 1 and 3). Nowhere in Dunken is it taught or suggested that the vessel 20 and reinforcing ribs 22 be formed by a blow-molded process. In fact Dunken, points out the disadvantages of blow-molded barrels and states that, "a drawback with blow-molded bottles is their tendency to leak at the connection between the bottle and the dispenser valve's neck" -- thereby teaching away from any combination with Pfeiffer which is directed to a blow-molded barrel. (*Id.* 1:58-60). While Dunken does teach a reinforcing rib, one of ordinary skill would never be motivated to take the reinforcing rib from the *injection molded* barrel of Dunken and employ it in the *blow-molded* barrel of Pfeiffer.

Furthermore, neither Pfeiffer nor Dunken disclose, teach or suggest how one of ordinary skill in the art would implement the injection molded ribs of Dunken in the blow-molded barrel of Pfeiffer. It is only in the applicants' own disclosure that it is suggested how to make the claimed combination of a blow-molded barrel having vertical ribs. "The

teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art, not in applicant's disclosure." MPEP § 2143.01 at 2100-125 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). In the absence of a suggestion or motivation to combine the references of Pfeiffer and Dunken, applicants assert that a *prima facie* case of obviousness has not been established and respectfully request withdrawal of the rejection.

C. 35 U.S.C. § 103(a): Claims 26-42

Claims 26-42 were rejected as being unpatentable over Watson in view of Dunken. Specifically, the Examiner asserts that it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the ribs of Dunken in the containers of Watson in order to reinforce them.

Watson discloses a container 10 including a body 12 having rectangular sidewalls 14, and a top 16 and sloping bottom 18. (Watson, 2:44-46, FIGS 1-11). Body 12 is made of a plastic material and is formed by *blow-molding*. (*Id.* at 2:47-48). Like Pfeiffer, Watson does not teach a container having a vertical rib formed by blow-molding or otherwise. Therefore, for reasons previously stated, neither Watson nor Dunken disclose, teach or suggest how one of ordinary skill in the art would implement the injection molded ribs of Dunken in the blow-molded container of Watson. Furthermore, Dunken teaches away from the blow-molded structure of the Watson barrel. (Dunken, 1:58-60). In the absence of a suggestion or motivation to combine the references of Watson and Dunken, applicants assert that a *prima facie* case of obviousness has not been established and respectfully request withdrawal of the rejection.

In addition, Watson further discloses that top 16 is formed with two circular access holes 22, 24 advantageously disposed away from the longitudinal axis of the container so that it is easy to install and remove the closures. (*Id.* at 2:50-53). Shown in FIG. 2, top 16 is formed *integrally* with the remainder of the body 12 and sidewalls 14 of container 10. As the specification of Watson states, "[t]he container is made by first blow-molding the body 12 to form a unitary structure." (*Id.*, at 3:35-37).

The container of Dunken includes a vessel with an open top and a separate lid for the vessel. (Dunken, 2:8-9). The container of Dunken with a separate, removable lid teaches away from the unitarily constructed top and body of the container in Watson. Applicants assert that there is no suggestion or motivation to combine the references of Watson and Dunken, and request that the rejection be withdrawn.

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